

BOARD OF REGISTRATION IN MEDICINE

Annual Report for Calendar Year 1980

Annual Report for Fiscal Year 1980

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Submitted by:

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Board of Registration in Medicine  
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In Compliance with General Laws Chap. 112, s.4

1. Function and Purpose

General Laws Chap. 112, ss. 2 through 12R, sets forth the Activities of the Board of Registration in Medicine which include registration of physicians by examination or by endorsement, temporary registration of physicians; limited registration of interns, residents, fellows, medical officers; investigation of complaints, adjudicatory hearings, and disciplinary decisions. The Board also licenses physical therapists by examination or by endorsement. Other functions include verification of registrations for other states and for the Registry of Motor Vehicles, approval of affiliations between teaching hospitals, the initiation of legislation, review of proposed new legislation pertaining to the registration of physicians and to the practice of medicine and to disciplinary proceedings and hearings before the Board; approval of supervising relationship between a physician and physician assistant, maintenance of a registry of physicians who supervise acupuncturists and the implementation of continuing medical education requirements for reregistration in 1980. The Board also maintains a directory of all registrants; the information in it is updated biennially through reregistration of physicians and physical therapists.



# Membership of the Board - General Laws Chapter 13, s.10.

The Members of the Board on January 1, 1980 and their terms of appointment were as follows:

Members of the Board	Date of Original appointment	Reappointed for Full Term	Reappointed for 2nd Full Term	Term Expires
George J. Annas, J.D., MPH	Jan., 1976		Jan., 1979	Jan., 1982
Carl E. Cassidy, M.D.	Jan., 1976	Sept. 1977	Jan., 1980	Jan., 1983
Salvatore N. Mangano, M.D.*	May., 1980			Jan., 1982
James F. McDonough, M.D.	Nov., 1979			Jan., 1982
Kathleen M. Mogul, M.D.	July., 1978			Jan., 1981
Helen G. O'Meara	Jan., 1980			Jan., 1983
Claude E. Welch, M.D.	Jan., 1976	March 1978		Jan., 1981

\*Salvatore N. Mangano, M.D. was appointed in May, 1980 to replace Jeffrey E. Harris, M.D. whose term was to expire Jan. 1, 1982.

Officers of the Board were elected on January 25, 1980. They were Claude E. Welch, M.D., Chairman; George J. Annas, J.D., M.P.H., Vice-Chairman and Carl E. Cassidy, M.D., Secretary. The Complaint Committee on January 1, 1981 was comprised of George J. Annas, J.D., M.P.H., Chairman; Salvatore N. Mangano, M.D., Kathleen Mogul, M.D. and Helen O'Meara. For a portion of the year James F. McDonough, M.D. also served on the committee.

## 3. Meetings of the Board, G.L. Chap. 13, section 10.

The Board is required by statute to meet at least once a month. The Board met 24 times during 1980 on the dates shown in Table XII.

All Board meetings are open to the public except for executive sessions, which were held subject to the provisions of G.L. chap 30A, s. 11A 1/2, and to the provisions of Chap. 213, Acts of 1980 after passage of this Act June 3, 1980. Executive sessions were held at essentially every meeting for the purpose of disposition of disciplinary cases.

#### 4. Legislative Acts 1980

In 1980, several laws were enacted that were of importance to the Board and to medical practice in Massachusetts. The most important ones are listed here. The chapters all refer to the Acts of 1980.

##### a. Chapter 213

Since this act has had a profound influence on the activities of the Board it will be quoted in full.

This bill, introduced by the Mass. Medical Society, was approved by the Board, but with certain modifications that would allow the Board more discretion in transmitting information to other agencies, to make trials open to the public and to allow a complainant to know the status of an investigation.

## THE COMMONWEALTH OF MASSACHUSETTS

Advance Copy                      1980                      Acts and Resolves

MICHAEL JOSEPH CONNOLLY, State Secretary

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Chap. 213. AN ACT FACILITATING THE CONDUCT OF INVESTIGATIONS BY THE BOARD OF REGISTRATION IN MEDICINE.

Be it enacted, etc., as follows:

Section 5 of chapter 112 of the General Laws is hereby amended by striking out the fourth paragraph inserted by chapter 623 of the acts of 1977 and inserting in place thereof the following paragraph:

No person filing a complaint or reporting or providing information pursuant to this section or assisting the Board at its request in any manner in discharging its duties and functions shall be liable in any cause of action arising out of the receiving of such information or assistance, provided the person making the complaint or reporting or providing such information or assistance does so in good faith and without malice. The Board shall keep confidential any complaint, report, record or other information received or kept by the Board in connection with an investigation conducted by the Board pursuant to this section; provided, however, that except to the extent that disclosures of records or other information may be restricted as otherwise provided by law, investigative records or information of the Board shall not be kept confidential after the Board has by dismissal, adjudication or other final action disposed of the matter under investigation nor shall the requirement that investigative records or information be kept confidential at any time apply to requests from the person under investigation for disclosure of information.

Approved June 3, 1980.

EMERGENCY LETTER June 2, 1980 at 2:07 P.M.



There have been numerous effects on the Board. All disciplinary problems must be considered in Executive Session. Heretofore, essentially all of our trials were held open to the public; since June, 1980 they have been held in closed sessions. It has been contrary to the statute for the Board to release any information under such circumstances to (a) the Drug Enforcement Agency; (b) to the Department of Public Health or (c) to hospitals who want to know if we have actions in progress against prospective staff members. Continuing discussions with our legal staff and the Attorney General's office have indicated that the language of the statute is so strict that no modifying regulations can be written. Consequently the Board has introduced a bill in the 1981 Legislature to allow more flexibility to our Board to act in the public interest, and otherwise to maintain confidentiality of complaints until they have been closed or until An Order to Show Cause is given.

6) Chapter 374. This act requires hospitals and physicians to report registrants whose privileges on hospital staffs have been terminated or revoked. This bill was introduced by the Board.

Chapter 333 - This act regulates the assessment of any deficit incurred by the JUA. The Bill was filed by Dr. Barry Manuel (See section 21).

Chapter 572 - By this act, the Commissioner of Administration and Finance has the authority to set fees for all state services including charges for license examinations, licensure and relicensure.

Heretofore these fees were set by Statute. The Board submitted several other bills that were not passed. They were resubmitted in Nov. 1980 for the next session of the Legislature.



## 5. Bills Submitted by the Board in 1980

In brief they were as follows:

- a. A bill to require all appeals from disciplinary decisions of the Board to be heard only in the Supreme Judicial Court.
- b. A bill to repeal G.L. Chap. 13, sect. 11 since it is in conflict with G.L. Chap. 13, S.10.
- c. Proposals to amend Chap. 213, acts of 1980, 1) to allow the Board further discretion releasing information on licensees who are under investigation to public agencies;  
2) to allow trials to be open to the public; 3) to permit complainants to be given information concerning the status of one's complaint.
- d. A bill that would change one of the requirements of registration. At present the statute states that all "legally chartered medical schools" must be accepted. Due to the proliferation of foreign schools that are "legally chartered" but possibly inadequate, the bill would allow "approved by the Board" to be substituted for "legally chartered".
- e. An act to require physicians to report that a registrant is unable to practice medicine competently.
- f. A bill to allow the Board to issue subpoenas and administer oaths in connection with any investigation of a registrant which it commences.
- g. A bill to require insurance companies to notify the Board of any settlements of malpractice actions in excess of \$10,000.

## 6. Examinations

The Board conducts two examinations for physicians and two for physical therapists each year. In June and December the FLEX examination is given for physicians. For full licensure the Board requires that this examination be passed in one sitting, with a weighted average of 75% or more. The examination is prepared by the National Board of Medical Examiners; Dr. Carl Cassidy, Secretary of our Board, is a member of the Examination Committee.

The data on the FLEX examinations are as follows:

Date	# of Candidates	#Passing	Percent Passing
FLEX - Dec. 1979	267	150	56
FLEX - June 1980	272	166	61
FLEX - Dec. 1980	188	112	61
P.T. - FY 1980 2 exams	191	183	96

Any individual who has failed the FLEX examination three (3) times must show evidence of further medical education before he can sit for another examination.

The Budget for FY 81 contained no funds for rent of facilities in which examinations can be given. Consequently, the last examination for physicians, and the last one for physical therapists were held on the second floor of the Saltonstall Building. These arrangements have proved to be reasonably satisfactory.

The cost and receipts from the examinations were as follows:

Commonwealth Pier (Rent)	Tables + Chairs	Proctors	Cost of Exam.	Fees Collected	
FLEX					
Dec. 79	\$ 4704	Rent includes Tables + Chairs	\$ 1860	\$ 24030.	Total amount for Dec.79 + June 80
June 80	\$ 4812.	Rent includes Tables + Chairs	\$ 2040	\$ 24570.	66,775.
Dec. 80 Saltonstall Bldg.	\$ 484.		\$ 1320.	\$ 16920.	\$ 18,375.
P.T.					
June 80 Saltonstall Bldg.	\$ 143.75		\$ 72.	\$ 1505.	\$ 8650.
Dec. 80 Saltonstall Bldg.	\$ 143.75		\$ 340.	\$ 5224.40	For Both Exams



## 7. Licensure 1980

There are several types of licensure specified by statute and by the regulations of the Board. They are as follows:

### a. Full Licensure.

Full licenses are issued to physicians either by examination (FLEX) or by endorsement of the physicians certificate from the National Board of Medical Examiners of the United States; or by a certificate of the National Board of Examiners for Osteopathic physicians and surgeons of the AOA; or by endorsement of a license from another state, Puerto Rico or Canada.

### b. Limited Licensure

Limited licenses are issued to physicians to complete their training before obtaining full licensure. These licenses allow the licensee to practice only in a specified health care facility. They are issued for a maximum of five years: any further extension is granted at the discretion of the Board to allow preparation for further examination.

### c. Specialty Licensure.

The Board may grant licenses limited to practice of a specialty to individuals who are certified by Specialty Boards, who have not passed the FLEX examination. Such physicians if they later pass the FLEX examination may obtain a full license. The Board grants very few of these licenses. Prior to 1980, only 8 Specialty licenses had been granted. During FY 1980, 4 Specialty licenses were given, 1 each in psychiatry, dermatology, radiology and otolaryngology. These data are shown in Table V.

Chapter 643 of the Acts of 1979 allowed the Board to give temporary registration to: a) a licensed physician who has a temporary faculty appointment in a Medical School for a maximum of three years; b) to physicians acting as substitutes for licensees up to a maximum of three months; c) physicians who are diplomates of a Specialty Board to act as a substitute physician in that specialty for a maximum of three months. d) to a licensed physician who is enrolled in the course of CME for a maximum of three months. These provisions will cover only a few physicians but are important for their protection.



## 8. Reregistration 1980

The date of the last biennial reregistration was Jan. 15, 1980. Reregistration packets were sent to physicians 60 days prior to that date. Just as happened two years previously, this period was a hectic period for the staff. Approximately 17,000 applications must be processed in this 60 days. Continuing Medical Education requirements doubled the number of forms that had to be handled and added to the difficulty.

By early Jan. 1980 numerous applications sent through the mail were returned undelivered. Many physicians especially those who have been in residency training programs either had left the State or had changed addresses without notifying the Board.

An emergency regulation passed on Jan. 14, 1980, stated that a physician could not be deprived of his license if his reregistration had not been completed by Jan. 15, 1980, if the failure was due to administrative errors. The office still had approximately 2,000 undelivered packets by Feb. 1, 1980. An additional mailing was instituted at that time. Unregistered members of the Mass. Medical Society were contacted by the Society.

By July 1, 1980, the Joint Underwriting Association (JUA), and major self insurance companies, run by hospitals were notified of the names of non-registered physicians. The JUA stated that insurance would be cancelled if reregistrations were not completed by Dec. 8, 1980.

By these methods the total number of physicians registered in Massachusetts by Dec. 31, 1980 was 17,892. Data from the reregistration forms is computerized and analyzed by the Department of Public Health. At the time this report was written, no data was available from this source.

## 10. Continuing Medical Education (CME)

Evidence of CME was required for reregistration in 1980 for the first time. Several methods of obtaining the proper credits were available, but essentially the requirement was for 40 hours of category 1 (as established by the AMA) CME for two years. CME was not required of interns and residents since they already were engaged in an educational activity. CME was not required for inactive physicians; they maintained their registration but did not practice or write prescriptions in Massachusetts. 314 physicians are in this group. In addition 130 physicians were granted exemption from CME because of illness by the Board.

Undoubtedly there have been some physicians who have preferred not to take CME and hence not reregistered. The Board has no knowledge of this exact number. We believe it consists chiefly of the older members who have preferred to retire. If the Massachusetts Medical Society figures can be extrapolated, less than one hundred physicians would fall in this group.

Since CME is required for reregistration, approval of the proper organizations providing such programs is essential. In Dec. 1980, the rift between the AMA and the Liaison Committee for Continuing Medical Education was settled amicably. A new organization - the Accrediting Council for CME - was formed by the merger of these two groups. The role of State Medical Society in accreditation interstate continuing medical education is assured.

The Mass. Medical Society requires a similar amount of CME as the Board does for maintenance of Membership. The MMS is qualified as an organization to accredit CME activities in Massachusetts. Hence the Board and the MMS have cooperated in the solution of various administrative problems that have arisen during the year.

## 11. Requests for Information

The Board received 26 requests for information concerning physicians licensed in the State in 1980. Such requests are considered individually. In general terms, data that have been defined as public information by the Attorney General's Office can be released upon payment of an appropriate fee, that covers expenses. Such data include names, addresses, education and professional background. Personal data such as age or marital status cannot be released.

## 12. Affiliations

The Board approves numerous affiliations between teaching hospitals and their affiliates. Such approvals are based nearly entirely upon the decision of the Liaison Committee for Graduate Medical Education.

## 13. Public Hearings

The Board held two public hearings in 1980. On Jan. 14, 1980, an emergency hearing resulted in an emergency regulation that permitted a grace period for reregistrants whose applications had not been processed by the deadline of Jan. 15, 1980. The second hearing on April 18, 1980, considered five changes or additions to the rules and regulations. They are summarized in Section 14 of this report.



#### 14. New Regulations of the Board

Regulations of the Board are promulgated after one or more public hearings and receipt of comments by interested persons. They become effective on the date of publication in the Mass. Register.

Effective Nov. 6, 1980 the following new regulations became effective.

##### 1. Patient's Rights Law and Breast Cancer

In addition to specifying large numbers of patient's rights, Chap. 214, Acts of 1979 imposed a particular restriction on physicians, in so far as breast cancer patients were concerned. The statute states that physicians must discuss various methods of alternative treatment of cancer of the breast with patients prior to treatment. However by the Board's regulation, a physician is excused if the patient does not wish to discuss or receive this information.

##### 2. FLEX Examination

A person who has failed the FLEX examination 3 times must present evidence of further education or training before further examination can be taken.

##### 3. Disciplinary Action

Such an action may be instituted if the physician has had his license restricted in any jurisdiction because of a disciplinary action. Disciplinary action may include revocation or suspension of a license, reprimand or censure. Other regulations are concerned with the date in which the disciplinary action begins, method of reinstatement and resignation.

##### 4. Unauthorized Medical Practice

All such cases shall be referred to the office of the Attorney General.

##### 5. In January 1980, the final documents concerning the Rules and Regulations of Nurses practicing in the Expanded Role was published as document 11697-14-1000-1-80-CR. These regulations were discussed in detail in the Board's last Annual Report will not be repeated here.

In addition, the emergency regulation concerning reregistration as reported in Section 8, was considered at a public hearing on April 18, 1980. This statement has not yet been published in the Massachusetts Register.



## 15. Disciplinary Actions

By the provisions of Chapter 213 of the Acts of 1980 the Board can divulge no information about disciplinary matters until a final disposition has been made. Consequently the public is not entitled to this information until; a) A complaint has been disposed of and closed; or B) If a complaint is judged to be important enough to require An Order to Show Cause when final disposition has been made after a trial.

### A. Complaints

See Table 1

In FY 1980 the Board received 246 complaints. 37 were referred to other Boards or agencies in 64, the Board had no jurisdiction and in 6 the statute of limitations had expired. In the remaining 139 cases, the Board conducted an investigation; 59 of these cases were closed during the year, while in 80 the complaints still are pending or OTSC's have been given. Fourteen OTSC's given during this year have not yet been completed. There was a backlog of 71 complaints on July 1, 1979 and of 90 cases on Jan. 1, 1980.

These figures show that the Board received fewer complaints in FY 1980 than in FY 1979.

The Complaint Committee has a difficult task. Many meetings are required to reach the numerous decisions required. In addition a number of impaired physicians are followed at regular intervals by the Committee or by the full Board.

### B. Orders to Show Cause

On January 1, 1980 the Board had issued 29 Orders to Show Cause in which final action had not been completed. By Jan. 1, 1981 final action had been taken on 16 individuals leaving an uncompleted backlog of 15. One additional OTSC had been issued and completed in 1980, so that the total of completed actions were in the calendar year of 1980 was 17. These actions (see table III) may be summarized as follows:

Revocation of License 5 (Masi, Gillies, Murray, Allen, White)

Suspension of License 1 (Kobrosky)

Reprimand 1 (Eramo)

Reprimand and Settlement Agreement 4 (Desforges, Taylor, Boyd, Heafitz)

Settlement agreement 2 (Gibson, Huebel)

Dismissal 4 (Carter, Clayden, Brewster, Lee)

As of Jan. 1, 1981 2 final actions of the Board were still under appeal in the SJC (Hammer, Arthurs). All other cases have been appealed to the SJC from 1976 to date have been decided in favor of the Board.

During the calendar year 1980, 15 Orders to Show Cause were issued by the Board. One (noted above) was settled in 1980. Hence on Jan. 1, 1981 the Board had a backlog of 14 cases still open on Dec. 31, 1980, plus 14 OTSC's issued in 1980, or 28 cases.

#### C. Impaired Physicians

The Board has identified approximately a dozen physicians who are impaired either by physical disability, psychiatric reasons, alcohol or drug use. They are being followed at regular intervals by either the Complaint Committee or the full Board. A full review of this subject with the Massachusetts Medical Society is planned in the near future.

#### D. Restoration of License

Applications for restoration of a license can be made a minimum of 1 year after revocation. Since Jan. 1, 1976 this has been done in 6 instances; in several cases the Board has imposed restriction on the license. (London, Gillies, Davidson, Weiser, Clark, Aspen).

### 16. Important Judicial Decisions

Probably the most important judicial decision affecting the medical profession in Massachusetts in 1980 resulted from the cases of Franklin vs. Albert and Teller vs. Schepens. In their discussion the Supreme Judicial Court ruled that "A cause of action for medical mal-practice does not accrue until the plaintiff learns, or reasonably should have learned, that he has been harmed as the result of a defendants conduct." Heretofore the medical profession had interpreted G.L. Chap. 260 Section 4 as amended by St. 1973 C. 777, S.3. to mean that this statute of limitations ran from the date of occurrence rather than from the date of discovery. The court rules any changes to occur from this interpretation must be by specific action of the Legislature.

Two disciplinary actions included items of particular interest. In Board vs. Masi the Board specified criteria by which the quality of care offered by an anesthesiologist could be judged; the SJC affirmed the action of the Board on appeal. In Board vs. Kobrosky on appeal to the SJC, in affirmation of the Board's decision the court included accommodation of the Board's report with its summary of pertinent medical literature.



## 17. Finances and Budget

The receipts and expenditures of the Board for FY 1980 and a comparison with previous years are shown in Tables IX, X and XI. It should be noted that some expenses incurred by the Board are in the account of the Division of Registration (e.g., 3 clerks). The total amount of this administrative support appropriated for 1980 was 44,199.

The most important item in the expenditures for FY 1980 was found in the 03 subsidiary account. This was due to the expense of the legal procedure of the Board vs. Cardio-Thoracic Associates. \$100,000 of this amount had been received by a special appropriation from the legislature. The remainder was secured by transfer from other accounts. The Board visualizes no similar expenditures in the foreseeable future.

The budget as submitted by the Board for FY 1981 and the actual appropriation made are shown in Table XI. It will be noted that the main discrepancy is in subsidiary account 16, where the Board asked for more funds to increase our office space and for examinations. These requests were denied.

The budget submitted for FY 1982 also is shown in Table XI. Here the major changes include funds for a transfer of 3 clerks from the budget of the Division of Registration to the budget of the Board.

## 18. Auditor's Report

The last report received by this office from the State Auditor arrived on Nov. 28, 1980 and covered the period July 1, 1978 to June 30, 1979. (Published as #80-6-XS-117) The auditor's summary appears in this annual report as Table IX; 12 furnishes the most accurate account of the receipts and expenditures in this period.

Two recommendations were made by the auditor as follows:

1. The Board exceeded its maximum obligations in three incidents for a total of \$14,375. It was recommended that the Board file an amended form AF-4 when maximum obligations are exceeded.
2. Chapter 362 of the Acts of 1975 that created the Board of Registration and Discipline in Medicine contained language in G.L. Chapter 13 Section 10 concerning salaries of Board members, but because of a legislative oversight G.L. Chapter 13 Section 11, that contained contradictory statements was not repealed. It was recommended by the auditor that the Board file legislation to repeal or amend G.L. Chapter 13, Section 11. The Board filed such a bill on Nov. 5, 1980.



## 19. Personnel

In 1980 there were important changes in personnel in the Board's office. Positions previously approved by the legislature were filled after long negotiations by the personal intervention of Governor King.

The present status of the office staff as of Jan. 1, 1981 is as follows:

Employees of the Board (Account #9230-0150)

	Date of Appointment	Name
Executive Secretary	April, 1980	James G. Nagle
Counsel IV	April, 1980	Kenneth L. Phalan
Counsel II	June, 1980	James J. Barrett
Investigator	March, 1980	Edna B. Ford
Investigator	July, 1980	Richard Neidinger
Clerk	June, 1980	Doreen S. O'Brien
Clerk	June, 1980	Grace A. Mastropietro
Clerk	July, 1980	Barbara A. Saia

Employees of the Division of Registration, assigned to the Board (Account #9230-0001)

Chief Administrative Clerk		Caroline Casey
Clerk	June, 1979	Marie LaPenna
Clerk	June, 1980	Marie Adams

The increased personnel under control of the Board has increased the 02 subsidiary account but has on the other hand reduced expenses in the 03 account for legal assistance. It has also increased the direct responsibility of the staff to the Board and has lead to a more efficient operation.

The Board has requested, in its 1982 budget, transfer of the 3 positions assigned to the Division of Registration to the Board. This would be accomplished without increased cost to the State, and would improve the functions of the Board office, and make all of the staff directly responsible to the Board.

## 20. Legal Support for the Board

At the time the Board was reorganized (approximately Jan. 1976), the Attorney General assigned Assistant Attorney General Garrick Cole to the Board. Thereafter, he attended essentially every meeting of the Board, served as advisor when Board members acted as Hearing Officers, wrote legal opinions for the Board, aided or wrote the rules and regulations for the Board and carried out other multiple duties. The Board has been profoundly grateful for all of his contributions. He resigned in August, 1980 to enter private practice. Thereafter, Assistant Attorney General Leah Crothers has acted as counsel for the Board.

Decisions of the Board when unfavorable to the physicians, usually are appealed to the courts. At present such an appeal may be entered in any court; eventually all appeals end in the Supreme Court. The Board has introduced legislation to require that all appeals go directly to the Supreme Court in order to avoid delays.

Such appeals are defended for the Board by the Attorney General's Office. Asst. Atty. Generals Paul Johnson and Scott Smith have served in this capacity. At the present time there are still 2 appeals in the Supreme Court (Hammer, Arthurs); all other contested cases have been decided in favor of the Board.

When the Board issues An Order to Show Cause, formal legal action is begun against a physician defendant. The Boards case must be prepared and processed by Attorneys. Prior to July 1980 this was done in either of two ways. From 1976 to early 1979 this work was divided between the Executive Secretary (a lawyer), and a lawyer, who had been appointed to the position of investigator together with two para-legals. Frequently outside legal consultants were necessary. In the past 6 months these duties have been transferred to our own legal counsels IV and II. Though legal consultants will be required at times in the future, the heavy expenditures from the 03 account and from a special appropriation required in FY 1979 and 1980 have disappeared in the last 6 months.

## 21. Medical Malpractice

The last annual report of the Special Commission on Medical Professional Liability was published June 12, 1979. It was mentioned briefly in the 1979 annual report of this Board. The next report of the Commission will appear within a few months. However, since the Board of Medicine is closely related to the Commission, several developments that occurred in 1980 deserve mention.

Chapter 373 of the Acts of 1980 made an important change in the method of assessment by insurance companies of physicians, in case a deficit should occur. Herebefore any deficit could be assessed retroactively, henceforth any future shortfall must be through prospective rate increases. This bill was introduced by Dr. Barry Manuel. The Supreme Judicial Court (Capp vs. Ballentine) Mass. Adv. Sh. (1980) 755. In its decision stated that a plaintiff is allowed to go to trial without posting bond if any evidence put forward by the plaintiff could conceivably support a decision for the plaintiff.

The important decision of the Supreme Judicial Court with respect to the statute of limitations was considered in Section 16.

## 22. Physical Therapists.

The Board administered two examinations for physical therapists in 1980, (see section 6 of this report). In FY 1980 a total of 179 physical therapists were registered on the basis of examination and endorsement license was granted to an additional 118 applicants.

Physical therapy licenses must be renewed every two years. In FY 1980, there were 2561 renewals.



23. Other organizations that impact upon the Board.

1. Consumer Affairs and Division of Registration

The Board of Medicine functions under the Director of Registration, Mr. John Mattuchio, and the Secretary of Consumer Affairs, Secretary Eileen Schell. Budget expense accounts, and personnel requests are routed thru these offices. Since the Board as well as the Division of Registration and office of Consumer Affairs are each striving for more autonomy, relations have not always been devoid of friction. The Board is certain that a major problem would be resolved if the clerks in our office now assigned to the Division of Registration were transferred to the control of the Board.

2. Department of Public Health

The DPH will assume the costs of computerization of data derived from the 1980 reregistration. Release of any individual data is limited to public information as defined by the office of the Attorney General.

3. Federation of State Medical Boards (FSMB)

Our Board sends representatives to the annual meeting. Dr. Cassidy serves as a member of the FLEX examination Committee. Dr. Welch is the appointee of the FSMB to the accrediting Council for Continuing Medical Education Accreditation Review Committee.

4. Massachusetts Medical Society

The legislative report sent out weekly to its' members have furnished essentially the only communication with individual physicians by the Board, since the Board has no funds for aid in disseminating information. The MMS and the Board are discussing methods to treat impaired physicians.

5. The Determination of Need program in MA was investigated by a special Task Force appointed by Governor King. The report submitted by the Chairman, Dr. Russell Rowell, among other recommendations concluded that the program needed to be strengthened and brought into compliance with federal requirements.



#### 24. Medical Meetings and Conferences

Board members have participated in several national meetings. The annual meeting of the Federation of State Medical Boards was attended by Dr. Carl Cassidy. Dr. Cassidy presented a paper entitled "Licensure by Specialty" which was published in the Federation Bulletin 67:263, 1980.

The AMA holds an annual conference on the disabled physician. Mrs. Helen O'Meara attended this meeting as a Board representative.

Carl Cassidy, M.D. continues to serve as a member of the FLEX examination committee and Claude Welch, M.D. serves as a member of the accreditation review committee of the Accreditation Council for Continuing Medical Education as a representative of the Federation of State Medical Boards.

George Annas has contributed numerous articles during the year to legal journals and to the Hastings Reports.

## 25. Summary of the main actions of the Board 1980

The most important actions of the Board in 1980 may be summarized as follows:

a) Completion of the case of the Board vs. Cardio-Thoracic Associates. This case began after preliminary investigation by An Order to Show Cause in Dec. 1976. It was terminated by settlement on May 2, 1980. It had proved to be long and expensive. The serious nature of the charges required the legal services of Choate Hall and Stewart. Professor Charles Baron of the Boston College Law School served as Hearing Officer. Settlement was reached just as the trial was to begin. The settlement included 8 conditions at which the most important were:

1. Five physicians in the group were reprimanded
2. They were ordered to cease the performance of cardiac surgery and if one or more wish to resume it, it can only be done after a six month residency in cardiac surgery in a residency approved by experts specified by the Board.
3. They agree not to set up any independent practice in cardiac surgery in the future.
4. Any practice of cardiac surgery in the future must be carried out in a facility that meets the volume standards generally recognized by cardio-vascular experts for the performance of cardiac surgery.

In 1980 one of these surgeons applied for and was granted a residency in cardiac surgery in an institution approved by the Board.

B. The Board in January 1980 was served by five clerks and one lawyer, (who was filling the position of an Investigator). Many of the duties of the Executive Secretary were carried out by a Board Member who was in the office nearly every working day.

By Dec. 31, 1980 the Board had 2 Counsels, 2 Investigators, an Executive Secretary and 5 Clerks. Thus the disciplinary arm of the Board has been greatly strengthened, and the registration activities are running more smoothly.

These changes were not accomplished easily. A great deal of discussion and personal intervention of the Governor and of his Deputy, Attorney Paul McCarthy, was required before the positions that had previously been authorized by the Legislature were filled.

- C. Activation of a Liaison Committee with the Board of Nursing to consider the nurses practicing in the expanded role. Two examinations were conducted for nurse anesthetists, who wished to qualify in this new category.
- D. Total registration of 17,892 physicians. (CY 1980)
- E. Issuance of 1751 new full licenses. (CY 1980)
- F. Issuance of 1340 limited licenses (CY 1980)

- G. Completion of 2 FLEX examination; 460 candidates were examined. (CY 1980)
- H. In CY 1980, 153 complaints were docketed; 63 have been closed.
- I. 26 Disciplinary cases were pending January 1, 1980
  - 11 new Orders to Show Cause were given in 1980.
  - 17 disciplinary cases were completed in 1980.
  - 28 cases were still pending on January 1, 1981
- J. Submission of 5 bills to the legislature for action in 1981.



## 26. Priorities for 1981

The annual report of the Board in 1979 contained 4 priority items for action in 1980. Three of them have been accomplished; (1) the appointment of additional personnel has improved the efficiency of the office, (2) disciplinary actions are moving more rapidly, and (3) in the last 6 months there has been a sharp reduction in the number and costs of legal consultants. Office space remains unchanged and an increase remains the first priority.

In addition, 5 less concrete objectives were listed in the 1979 report. There has been modest progress in some of these items. For example, hospitals now are required to report loss of privileges by physicians to the Board; however, to date there have been only a few cases reported.

The priorities for 1981 are as follows:

1. The greatest need in the office is for more space. The area in which the legal and disciplinary group must serve is particularly poor, since our lawyers have no privacy for their work interviews or even telephone conversations.
2. The Board continues to press for transfer of the 3 clerks who are assigned to the Division of Registration to the Board. This would assure that they would not be removed or assigned to other offices without consent of the Board.

Other items that will require attention include:

1. More rapid processing of registration, especially in the very busy periods (i.e. at times of reregistration of physicians, issuing of limited licenses for physicians and reregistration of physical therapists.
2. The Board is dependent upon the Department of Public Health for analysis of data on reregistration. While this arrangement has been satisfactory in the past few years there is no certainty that it will continue to be available. Alternatives must be investigated.
3. The Board is receiving a number of inquiries concerning the relationship of physician's nurses and physician's assistants. This matter will require careful attention.



## 27. General Summary of Medical Practice - 1980

Cost containment proved to be the most important consideration of the profession and the public in 1980. Caps on hospital costs were accomplished in Massachusetts by a combination of voluntary action and the activities of the Rate-Setting Commission and by the legislature which imposed a cap of 11 1/2% on the increase in costs allowed for certain hospitals. The urge to enact National Health Insurance cooled completely in view of the increased costs and fear of even greater expenditures in the future. At present about 9% of the gross national product is devoted to health care.

A wave of conservatism became apparent this year. Economy has forced a second look at many governmental programs. Social security funds, the medicaid program, health service areas have all faced retrenchment. PSRO's, believed by many in government to be solely a costly control mechanism, have not clearly achieved this end; physicians regard them as a method of quality control as the primary function, and are more pleased with its performance. However, AMA recently withdrew its support of ASRO's. It is fair to state that all government funded programs, including those not only for PSRO's but for support of research, and of education and training of health personnel are under intense scrutiny.

An ad hoc commission - GMENAC - recently concluded its work. After a four year study the most important of forty recommendations made by it to the congress included, (1) reduction in the number of U.S. medical students in view of the prospect of a large surplus of physicians in 1980 as well as a sharp reduction in the number of foreign medical school graduates allowed to enter the U.S.; (2) a study of the need to train non-physician health care providers, such as physician's assistants, and not to increase their numbers until the study is completed; (3) an increased number of general practitioners or those devoted to family practice with a decrease in the number of surgeons and redistribution of manpower in the specialties. The recommendations have engendered criticism from many quarters since it always is impossible to accurately assess the future. Nevertheless, there are important trends which at least are true today if not tomorrow. This commission expired in October, 1980 and has not been renewed by the congress. Hopefully, the studies will be pursued by voluntary organizations in the future.

The year has also seen an increase in the number of prepaid medical groups such as Health Maintenance Organizations (HMO's) and Independent Practice Association (IPA's). This development would support Enthoven's Contention that competition between such organizations will ultimately prove to be the way to control medical costs. Nevertheless there has been a high financial failure rate with HMO's. There also are impressions in many quarters that cost-savings are effected only by lowering the quality of care. A sharing of costs by consumers may ultimately prove to be the more important way to control cost.

There has been interest in the reduction of costs of professional liability of committees by the American Bar Association. In a manner similar to workmen's compensation, patients prior to hospital entry could purchase insurance against some of the injuries acquired during treatment. These "designated compensable events" would then avoid court action and a specific sum would be paid to the injured individuals. At present, the ABA has not approved this concept, despite the enthusiastic support of some of its committees. This method, however, should be investigated carefully.

STATUS BY CATEGORY OF COMPLAINTS DOCKETED IN FISCAL YEAR 1980July 1, 1979 - June 30, 1980TABLE I(a)

<u>Description</u>	<u>Complaints Docketed</u>	<u>Complaints Closed</u>	<u>Complaints Pending</u>
<u>Jurisdictional</u>			
Negligent or Misdiagnosis	52	24	28
Sexual Involvement	3	0	3
Fraud	10	2	8
Drug Cases	13	1	12
Confirmed Alcohol or Drugs	3	0	3
Informed Consent	3	1	2
Other	39	19	20
Sub-Total	123	47	76
<u>Questionable Jurisdiction</u>			
Medicaid Refusal	3	3	0
Other	13	9	4
Sub-Total	16	12	4
TOTALS	139	59	80



DISPOSITION OF COMPLAINTS RECEIVED IN FISCAL YEAR 1980 WHICH WERE NOT DOCKETED  
OR WHICH INCLUDED JURISDICTION OF OTHER AGENCIES OR BOARDS

TABLE I(b)

Referred	Total	No Jurisdiction	Total	Jurisdiction	Total
Attorney General's Office	4	Billing	34	Statute of Limitations	6
Medicaid Fraud Control Unit					
Attorney General's Office	3	Other	28		
Dept. of Public Health					
Hospitals	0	Anonymous	2		
Dept. of Public Health					
Long Term Care	0				
Dept. of Public Welfare	1				
Diversión Investigative Unit	4				
Board of Pharmacy	3				
Dental Examiners	13				
Board of Nursing	3				
Chiropractice	3				
Board of Optometry	1				
Health, Education, Welfare	1				
Podiatry Board	1				
TOTALS	37		64		6

Table II  
COMPLAINT DISPOSITIONS

January 1, 1980 to December 31, 1980

Description	Complaints Docketed	Complaints Closed	Complaints Pending
<u>Jurisdictional</u>			
Negligent or Misdiagnosis	51	20	31
Sexual Involvement	3	0	3
Fraud	6	2	4
Drug Cases	11	2	9
Confirmed Alcohol or Drugs	3	0	3
Informed Consent	4	2	2
Other	65	33	32
Sub-Total	143	59	84
<u>Questionable Jurisdiction</u>			
Medicaid Refusal	1	0	1
Other	9	4	5
Sub-Total	10	4	6
TOTALS	153	63	90

The Board of Registration in Medicine voted to issue An Order to Show Cause in the matters of two of the above complaints docketed in 1980.

## DISCIPLINARY ACTIONS COMPLETED IN CALENDAR YEAR 1980

TABLE III

NAME	DATE COMPLAINT RECEIVED	DATE OF ORDER TO SHOW CAUSE	DATE OF FINAL ACTION	ACTION	NOTES
C. Claydon	6/09/77	12/30/77	1/03/80	Dismissal	
R. Masi	8/29/77	3/07/78	1/03/80	Revocation	Appealed to S.J.C. Board action affirmed August 25, 1980.
F. Carter	7/76	7/21/78	2/08/80	Order withdrawn Dismissal	
W. Brewster	12/11/78	12/28/78	2/8/80	Dismissal, Respondent deceased	
R. Gillies	1/25/77	2/24/78	3/10/80	Revocation License restricted	
J. Lee	1/16/76	6/20/77	4/04/80	Dismissal, Respondent Exonerated	
T. Boyd	1/16/76	6/20/77	4/04/80	Reprimand and Settlement Agreement	
M. Heafitz	1/16/76	6/20/77	4/04/80	Reprimand and Settlement Agreement	
W. Taylor	1/16/76	6/20/77	4/04/80	Reprimand and Settlement Agreement	
H. Gibson	1/16/76	6/20/77	4/04/80	Dismissal and Settlement Agreement	
G. Desforbes	1/16/76	6/20/77	4/04/80	Reprimand and Settlement Agreement	
H. Huebel	1/16/76	6/20/77	4/04/80	Dismissal and Settlement Agreement	
C. White	9/20/76	10/05/76	4/04/80	Revocation	
L. Eramo	4/21/76	5/17/78	5/02/80	Reprimand	
M. Kobrosky	5/27/76	10/01/76	8/24/80	Suspension	Appealed to S.J.C. Board action affirmed August 15, 1980.
G. Murray	12/24/79	3/05/80	10/17/80	Revocation	
D. Allen	1/17/79	1/18/79	12/19/80	Revocation	



Table IV

## Disciplinary Cases Pending Jan. 1, 1981

Total number of OTSC's pending	28
Total number of complaints pending	109
Received in CY 1980	90
Received in CY 1979	9
Received in CY 1978	6
Received in CY 1977	2
Received in CY 1976	2

Note: Seven licenses for either full or restricted practice have been restored to physicians who had either revocation or suspension imposed by the Board since January, 1976.

Table V

	<u>CY 1980</u>	<u>FY 1980</u>
New full licenses	1,751	1459
National Board	(1,126)	(1142)
Endorsement	(318)	
FLEX	(307)	(317)
Limited License	1,340	2170
Specialty License	4	3



Table VI

## Reregistration of Physicians FY and CY 1980

Renewals FY 1980 - 15,868

Total physicians registered June 1, 1980 - 17,892

Table VII

## Registration of Physical Therapists FY 1980

New licenses issued:

By examination: 179

By endorsement: 118

Table VIII

## Reregistration of Physical Therapists FY 1980

Number of renewals issued - 2561

Statement No. I

Comparative Statement of Expenditures under  
Appropriations and Receipts Account to Income

Two Fiscal Periods Ending June 30, 1979

	<u>1978</u>	<u>1979</u>	<u>Increase (Decrease)</u>
Appropriations (Account #9230-0150)	\$ 80,000	\$205,950	\$125,950
Allocations from the Division of Registration (Account #9230-0001)	<u>175,989</u> <u>\$255,989</u>	<u>187,111</u> <u>\$393,061</u>	<u>11,122</u> <u>\$137,072</u>
Disbursements	\$243,012	\$194,777	\$(48,235)
Encumbrances	-	92,895	92,895
Expenditures	<u>\$243,012</u>	<u>\$287,672</u>	<u>\$ 44,660</u>
Reverted	2,216	105,389	103,173
Returned to Division	<u>10,761</u> <u>\$255,989</u>	<u>-</u> <u>\$393,061</u>	<u>(10,761)</u> <u>\$137,072</u>
Analysis of Expenditures:			
Salaries - Board Members	\$ 15,680	\$19,800	\$ 4,120
Salaries - Permanent Employees	41,101	38,981	(2,120)
Salaries - Other	47,832	53,449	5,617
Services - Nonemployees	44,062	55,970	11,908
Travel and Automotive Expenses	4,700	4,700	-
Advertising and Printing	1,262	589	(673)
Repairs, Replacements and Alterations	69	151	82
Special Supplies and Expenses	59,286	81,700	22,414
Office and Administrative Expenses	14,521	16,226	1,705
Equipment	1,947	-	(1,947)
Rentals	<u>12,552</u> <u>\$243,012</u>	<u>16,106</u> <u>\$287,672</u>	<u>3,554</u> <u>\$44,660</u>



## Analysis of Receipts:

## Medicine:

National Board - Physicians and Surgeons	\$ 66,600	\$ 67,500	\$ 900
Endorsements - Physicians and Surgeons	22,650	26,150	3,500
Examinations - Physicians and Surgeons	63,250	58,500	(4,750)
Re-examinations - Physicians and Surgeons	20,550	21,300	750
Renewals	738,150	27,150	(711,000)
Limited Registrations - Interns	13,665	11,130	(2,535)
Temporary Licenses	200	600	400
Certified Statements	2,337	2,573	236

## Physical Therapy:

Examinations	9,250	9,050	(200)
Re-examinations	275	475	200
Endorsements	3,025	2,675	(350)
Renewals	22,490	890	(21,600)
Certified Statements	90	159	69

## Miscellaneous

101	243	141
<u>\$962,633</u>	<u>\$228,394</u>	<u>\$(734,239)</u>

Excess (Deficit) of Expenditures over Income

<u>\$(719,621)</u>	<u>\$ 59,278</u>	<u>\$778,899</u>
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Table X

## Income and Expenditures FY 1980

Expenditures:	341,429.77
Income:	968,118.00



Table XIBudget Requests by Board

Subsidiary Account	FY 1981	FY 1982	Actual Appropriation FY 1981
01 - Authorized positions (Board Members Salary)	23,475	82,045*	23,475
02 - Employees	125,760	127,082	125,760
03 - Consultants, proctors, steno's	70,000	71,800	61,412
10 - Travel	7,500	9,000	7,500
11 - Advertising, printing	6,000	4,080	3,500
12 - Maintenance, Repairs	600	400	385
13 - Examinations	135,000	135,000	135,000
14 - Postage, Stationery	22,000	23,340	22,000
15 - Desks, Files	1,660	2,000	1,245
16 - Rentals	52,500	23,005	7,500
TOTAL	444,495	477,752	387,777

\*Includes new authorized positions, Head Administrative Clerk, Senior Clerk, Junior Clerk, and additional salary for Board members.

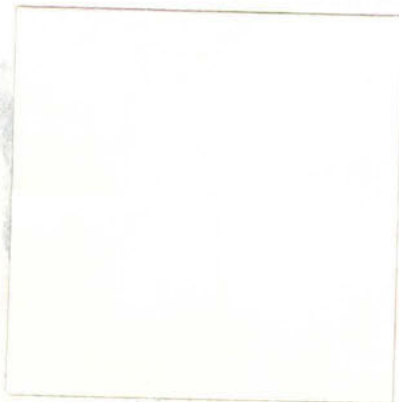
Table XII (a)

Board Meetings Hearings

	Doctor Welch	Doctor Cassidy	Mrs. Cloutier Mrs. O'Meara	Doctor McDonough	Doctor Mogul	Mr. Annas	Doctor Harris Doctor Mangano
Jan. 2	X	A	X	X	A	X	X
Jan. 11	X	X	X	X	X	X	X
Jan. 14	X	X	X	X	A	X	X
Jan. 25	X	X	X	X	X	A	X
Feb. 8	X	A	X	X	X	X	X
Feb. 22	X	X	X	A	X	X	X
Mar. 7	X	X	X	X	X	X	X
Mar. 21	X	X	X	X	X	X	X
Apr. 4	X	X	X	X	X	A	A
Apr. 18	X	X	X	X	X	X	A
May 2	X	X	X	X	A	X	A
May 16	X	X	X	X	A	X	A
June 13	X	X	X	X	X	X	X
June 27	X	X	X	X	X	A	X
July 11	X	X	X	A	X	X	X
July 25	X	X	X	X	X	X	X
Aug. 15	X	X	X	X	X	A	X
Aug. 29	X	X	A	X	A	A	X
Sept. 12	A	X	X	X	X	X	X
Oct. 3	X	X	X	X	X	X	X
Oct. 17	X	X	X	A	X	X	X
Nov. 28	X	A	X	X	X	X	X
Dec. 19	X	X	X	X	A	X	X
24	23	20	23	21	17	18	19

X Mrs. O'Meara appointed Jan. 1980 to replace Mrs. Cloutier

XX Dr. Mangano appointed in May, 1980 to replace Dr. Harris



Board of Registration in Medicine  
Summary of Complaint Committee Meetings

Fiscal Year 1980 XII(b)

Table

A = Appointed to Committee

R = Resigned from Committee  
or Retired

Date	Annas	Cassidy	Harris	McDonough	Mogul	Cloutier	Mangano
Aug. 3, 1979	X	X	X			X	
Sept. 14	X	X	X				
Sept. 24	X	X				X	
Oct. 22	X	X				X	
Nov. 16	X	X	X				
Dec. 7		X	X			X	
Dec. 21	X	X	X			X	
Jan. 7, 1980	X	X				X	
Jan. 21	X	X	X			X (R)	
Feb. 13	X		X	X(A)	X(A)		
Feb. 27	X	X(R)	X		X		
Mar. 12	X		X(R)	X	X		
Mar. 28	X				X		
Apr. 9	X			X			
Apr. 25	X				X		
May 22	X				X		
June 23	X				X		X (A)
17	16	10	9	3	7	7	1